



April 18, 2006

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SO. CAROLINA
COLUMBIA

Mr. Charles Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
Attention: Docketing Department
P. O. Drawer 11649
Columbia, South Carolina 29211

RE: Docket No. 2004-219-E

Dear Mr. Terreni:

Enclosed for filing are an original and ten (10) copies of Progress Energy Carolinas, Inc.'s Proposed Order in the above-referenced docket.

Sincerely,

A handwritten signature in black ink, appearing to read 'Len S. Anthony' with a stylized flourish at the end.

Len S. Anthony
Deputy General Counsel – Regulatory Affairs

LSA:gac

cc: Office of Regulatory Staff
Mrs. Beatrice Weaver

233252

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-219-E – ORDER NO. 2006-_____
APRIL _____, 2006

IN RE: Carolina Power & Light Company d/b/a)
Progress Energy Carolinas, Inc. – Petition)
To Terminate Service)
PROPOSED ORDER

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion to Continue Date of Hearing and Extension of Time for Filing of Pleadings filed by Mrs. Beatrice Weaver (Respondent); and the Motion to Close Docket filed by Len S. Anthony, Esquire, on behalf of Progress Energy Carolinas, Inc. (PEC).

The above-referenced docket was established by the Commission on August 5, 2004, in response to PEC's filing on August 4, 2004 of a Petition to Terminate Service to Respondent's properties at 1253 Harllees Bridge Road, Little Rock, South Carolina.

On September 8, 2004, Respondent filed Respondent Beatrice Weaver's Answer to Petition; Counterclaim; Request for Formal Hearing; Affidavit of Beatrice Weaver; Exhibit A. In response to her request for a formal hearing in this matter, the Commission issued an order on September 29, 2004 scheduling hearing for December 9, 2004. Citing medical reasons, Respondent on November 24, 2004 moved for a three-month continuance of the hearing. The Commission, by Order dated December 3, 2004, granted her motion and rescheduled the hearing for March 10, 2005.

On February 8, 2005, Respondent again moved for a continuance based on medical grounds, this time asking the Commission “to set a date and time certain at least sixty (60) days following the end of May 2005.” On March 14, 2005, the Commission issued an Order Granting Continuance, and stating that the hearing “shall be set for some appropriate time in June 2005.” On June 7, 2005, Respondent wrote a letter to the Commission stating that she was convalescing in Yuma, Arizona, was scheduled for admittance to the Mayo Clinic from July through August, then would return to Duke University Medical Center through September, and thereafter would need time “to process the legal requirements for the preparation for the Hearing. Thus in view of my medical condition and schedule, may I propose that you set the Hearing Date during either the second part of November, or during the first part of December, 2005.” The Commission duly scheduled the hearing for December 14, 2005.

By motion dated October 10, 2005, Mrs. Weaver asked that the December 14, 2005 hearing date be continued again and set for “a date and time certain on or about March 15, 2006.”

On October 13, 2005, PEC wrote the Commission a letter asking to withdraw PEC’s August 4, 2004 Petition, noting that during the intervening fourteen months many of the conditions that had prompted the original Petition had “improved dramatically,” and that PEC no longer desired a hearing on this matter. The Commission issued an Order Granting Request to Withdraw Petition Without Prejudice on October 31, 2005. Respondent, however, informed the Commission of her intention to continue prosecuting her counterclaims against PEC. She subsequently wrote a letter to the Commission dated November 25, 2005, asking the Commission to order PEC to reconnect service to her

house (which has been disconnected since December 21, 2001 for non-payment of over \$5000 in electric bills) in her name without requiring payment of the outstanding debt. PEC filed a letter with the Commission on December 6, 2005, reiterating its position that the Respondent is responsible for the debt and that service to the house should not be connected in her name until the debt is paid.

On December 16, 2005, the Commission issued an Order Ruling on Various Requests and Establishing Hearing in this docket, stating in part that “Progress Energy also contested [Mrs. Weaver’s] request to reenergize electric service at her house until the debt for unpaid electric bills at the premise is paid...As such, this request is a contested matter and should be scheduled for hearing at a time consistent with the Commission’s current schedule.” In this Order the Commission also sought to accommodate Respondent by offering to assist setting up a video conference hook-up to facilitate her participation in the hearing, an offer which Respondent subsequently rejected. The Commission duly scheduled the hearing for January 12, 2006. The Respondent, on January 10, 2006, again requested that the hearing be continued, citing health reasons. The Commission granted her request, rescheduling the hearing for April 13, 2006.

On February 8, 2006, Respondent again moved for a continuance, citing the anticipated absence of unnamed material witnesses for observances of Passover and/or Easter. In an Order entered February 27, 2006, the Commission denied Respondent’s motion for continuance of the April 13, 2006 hearing. Respondent renewed her motion for continuance through several filings thereafter, again raising medical grounds for the request. In her March 10, 2006 Memorandum in Support of Motion to Continue Date of Hearing, Respondent revealed that, within days of filing her February 8, 2006 motion for

continuance, and with full knowledge that her hearing was scheduled for April 13, 2006, she voluntarily agreed to a date of April 12, 2006 for a surgical procedure that would make it impossible for her to attend the April 13 hearing or to comply with any other hearing date scheduled until after the end of May.

The Commission may, pursuant to S.C. Code Ann. Regs.103-862, grant or deny requests for continuances. The Commission has amply demonstrated its willingness to work with Respondent by granting four continuances at her request over a sixteen-month period. In an effort to further facilitate the process, the Commission offered to arrange video-conferencing that would have allowed Respondent to participate in the hearing without traveling to Columbia. Respondent's actions throughout this period, however, have made it apparent that she is either unwilling or unable to follow this matter to its conclusion. The Commission therefore denies her March 10, 2006 request for continuance. However, as further decided below, this issue is now moot, as the Commission grants PEC's Motion to Close Docket filed March 30, 2006.

PEC, on March 30, 2006, filed with the Commission a Motion to Close Docket, on the grounds that the Commission proceeding is duplicative of PEC's ongoing civil suit against the Respondent and her husband Gary Weaver in Dillon County Court of Common Pleas, Fourth Judicial Circuit (Case #2004-CP-17-232), PEC filed its civil suit on July 7, 2004, seeking recovery of the outstanding debt for unpaid electric service bills at Respondent's house. PEC subsequently (on October 26, 2004) filed a Motion for Summary Judgment in that proceeding regarding Mr. and Mrs. Weaver's mutual responsibility for the debt at issue. In an Order dated February 4, 2005, the court granted PEC's Motion for Summary Judgment with respect to Mr. Weaver, but denied the

Motion for Summary Judgment as to Mrs. Weaver, stating in part that “This case will proceed against Mrs. Weaver in order to determine any responsibility she may have for the debt...” The trial was scheduled for February 27, 2006, but was continued at the request of Mr. Weaver, who cited his wife’s poor health and the fact that he “has been pre-occupied with attending her for treatment of said medical problems for the entire year of 2005 and to the present date, as required by the hospital.” The court subsequently set a date certain for the trial to begin on October 30, 2006.

In a February 23, 2006 Motion in the civil case, Mr. Weaver stated that PEC “has not exhausted administrative relief in this matter, having placed *the same claims which are the subject of this action, before the PSC for decision*” (emphasis added). PEC argues that at their inception, the Commission proceeding and the civil case dealt with distinctly separate issues, but that as these proceedings have evolved over a two-year period, largely through the machinations of the Respondent and her husband, Respondent’s responsibility for the outstanding debt on the electric service account for the house has become a central issue in both proceedings. PEC therefore moved the Commission to close Docket No. 2004-219-E on the grounds that the Commission proceeding in this docket duplicates the issue defined by the court in the civil case scheduled for trial in October 2006. That is, in both proceedings the central issue is whether Mrs. Weaver is responsible for the outstanding debt.

ORDER

The Motion of Mrs. Beatrice Weaver to continue the April 13, 2006 hearing in Docket No. 2004-219-E is denied. PEC's Motion to Close Docket is granted. Pursuant to S.C. Code Ann. Regs.103-868, the matter is dismissed without prejudice.

BY ORDER OF THE COMMISSION:

Randy Mitchell, Chairman

ATTEST:

G. O'Neal Hamilton, Vice Chairman

(SEAL)